



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,848	07/16/2004	Edward R. Dougherty	4239-64453-2	7131

36218 7590 11/06/2007
KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

EXAMINER

MARTINELL, JAMES

ART UNIT	PAPER NUMBER
----------	--------------

1634

MAIL DATE	DELIVERY MODE
-----------	---------------

11/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.		Applicant(s)	
	10/501,848		DOUGHERTY ET AL.	
	Examiner		Art Unit	
	James Martinell		1634	

All participants (applicant, applicant's representative, PTO personnel):

(1) James Martinell. (3)_____

(2) Mr. Maurer. (4)_____

Date of Interview: 30 October 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.

If Yes, brief description: Attached 2 page fax with proposed declaration under 37 CFR 1.132.

Claim(s) discussed: All.

Identification of prior art discussed: Balagurunathan et al (Proceedings of SPIE 4266: 163 (2001)).

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Exr. indicated that proposed amendment would be sufficient to overcome the rejection under 35 U.S.C. § 102(a). Applicant intends to file a formal response..

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

 10/30/07
Examiner's signature, if required



KLARQUIST SPARKMAN, LLP

PATENTS TRADEMARKS, COPYRIGHTS & LITIGATION • SINCE 1941

INFORMAL COMMUNICATION - DO NOT ENTER

PLEASE DELIVER DIRECTLY TO EXAMINER JAMES MARTINELL

Fax No.: 571-273-0719

Total No. Pages: 2 including this cover sheet

Reference No.: 4239-64453-02

Message: If you do not receive all pages or if you have problems receiving transmittal, please call Gregory L. Maurer at (503) 595-5300.

GREGORY L. MAURER

Attorney

Portland Office

gregory.maurer@klarquist.com

www.klarquist.com

In re application of; Dougherty et al.

Application No.: 10/501,848

Filed: July 16, 2004

For: SIMULATING MICROARRAYS USING A
PARAMETERIZED MODEL

Examiner: James Martinell

Art Unit: 1634

Date: October 25, 2007

INFORMAL COMMUNICATION - DO NOT ENTER

TELEPHONIC INTERVIEW AGENDA

Further to the telephonic interview scheduled for Tuesday, October 30, 2007, at 2 PM EDT (11 AM PDT), a declaration for overcoming the rejection is attached for discussion.

THE INFORMATION CONTAINED IN THIS TRANSMISSION IS CONFIDENTIAL AND ONLY FOR THE INTENDED RECIPIENT IDENTIFIED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION OR USE OF THIS COMMUNICATION IS UNLAWFUL. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE (COLLECT), RETURN THE ORIGINAL MESSAGE TO US, AND RETAIN NO COPY.

ONE WORLD TRADE CENTER
121 S W SALMON STREET, SUITE 1600
PORTLAND, OREGON 97204
PHONE: 503-595-5300
FAX: 503-595-5301

6151 LAKESIDE DRIVE, SUITE 2100
RENO, NEVADA 89511
PHONE: 775-824-0104
FAX: 775-824-0107

ONE UNION SQUARE
400 UNIVERSITY STREET, SUITE 2950
SEATTLE, WASHINGTON 98101
PHONE: 206-264-2960
FAX: 206-264-2719

GLM 10/03/07 4239-64453-02 E-089-2003/O-US-03

PATENT

Attorney's Matter No. 4239-64453-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Dougherty et al.

Art Unit: 1634

Application No.: 10/501,848

Filed: July 16, 2004

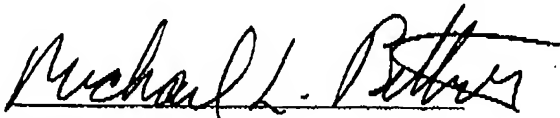
For: SIMULATING MICROARRAYS USING A
PARAMETERIZED MODEL

Examiner: James Martinell

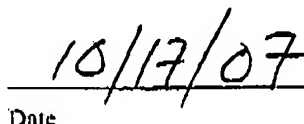
DECLARATION OF MICHAEL L. BITTNER UNDER 35 C.F.R. § 1.132

With respect to the above-identified patent application, I, Michael L. Bittner, declare as follows:

1. All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true; and further these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.
2. I have examined the article "A Random Signal Model for cDNA Microarrays" ("the Article"), which was published on or after January 19, 2001, in vol. 4266 of *Proceedings of SPIE*.
3. I am listed as an author on the Article.
4. I worked with named inventor Yidong Chen during development of the technologies described in the Article.
5. I have expertise and experience in the field of microarray images. I was consulted by named inventor Yidong Chen regarding whether simulated microarray images generated by the technologies described in the Article had realistic qualities mimicking those found in real microarray images.
6. I have reviewed the claims currently pending for the above patent application
7. While I did serve the role of consultant for the technologies, I did not contribute to the conception of any of the claimed subject matter.
8. J. M. Trent ("Mr. Trent") is listed as an author on the Article. Mr. Trent was the scientific director of the National Human Genome Research Institute's Division of Intramural Research and served in a leadership role of the Division, but he did not contribute to the conception of the any of the claimed subject matter. Because of his position as an organizational head of the Division, Mr. Trent was given authorship credit on the Article.



Michael L. Bittner


Date

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.